

## HOUSE BILL NO. 261

INTRODUCED BY T. MCGILLVRAY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE INFLATION ADJUSTMENT FOR CERTAIN EXEMPTIONS AND DEDUCTIONS IN DETERMINING INDIVIDUAL INCOME TAXES; ALLOWING MARRIED TAXPAYERS A HIGHER EXEMPTION AMOUNT FOR DEPENDENT CHILDREN BY REVISING THE CALCULATION OF THE INFLATION ADJUSTMENT FOR THAT EXEMPTION; PROVIDING AN INFLATION ADJUSTMENT FOR FEDERAL INCOME TAXES PAID; AMENDING SECTIONS 15-30-112 AND 15-30-121, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-30-112, MCA, is amended to read:

**"15-30-112. Exemptions -- inflation adjustment.** (1) ~~Except as provided in~~ Subject to subsection (6), ~~in the case of an individual; is allowed as deductions in computing taxable income~~ the exemptions provided by subsections (2) through (5) ~~must be allowed as deductions in computing taxable income.~~

(2) (a) An exemption of \$1,900 is allowed for all taxpayers.

(b) An additional exemption of \$1,900 is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of \$1,900 is allowed for the taxpayer if the taxpayer has attained the age of 65 before the close of the taxpayer's tax year.

(b) An additional exemption of \$1,900 is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of the tax year and, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of \$1,900 is allowed for the taxpayer if the taxpayer is blind at the close of the taxpayer's tax year.

(b) An additional exemption of \$1,900 is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the tax year of the taxpayer

1 begins, does not have gross income and is not the dependent of another taxpayer. For the purposes of this  
2 subsection (4)(b), the determination of whether the spouse is blind must be made as of the close of the tax year  
3 of the taxpayer, except that if the spouse dies during the tax year, the determination must be made as of the time  
4 of death.

5 (c) For purposes of this subsection (4), an individual is blind only if the person's central visual acuity does  
6 not exceed 20/200 in the better eye with correcting lenses or if visual acuity is greater than 20/200 but is  
7 accompanied by a limitation in the fields of vision to an extent that the widest diameter of the visual field subtends  
8 an angle no greater than 20 degrees.

9 (5) (a) An exemption of \$1,900 is allowed for each dependent:

10 (i) whose gross income for the calendar year in which the tax year of the taxpayer begins is less than  
11 \$800; or

12 (ii) who is a child of the taxpayer and who:

13 (A) has not attained the age of 19 years at the close of the calendar year in which the tax year of the  
14 taxpayer begins; or

15 (B) is a student.

16 (b) An exemption is not allowed under this subsection for a dependent who has made a joint return with  
17 the dependent's spouse for the tax year beginning in the calendar year in which the tax year of the taxpayer  
18 begins.

19 (c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson,  
20 daughter, or stepdaughter of the taxpayer.

21 (d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of  
22 5 calendar months during the calendar year in which the tax year of the taxpayer begins:

23 (i) is a full-time student at an educational institution; or

24 (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited  
25 agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection  
26 (5)(d)(ii), the term "educational institution" means only an educational institution that normally maintains a regular  
27 faculty and curriculum and normally has a regularly organized body of students in attendance at the place where  
28 its educational activities are carried on.

29 (6) ~~(a) The~~ Except as provided in subsection (6)(b), the department, by November 1 of each year, shall  
30 multiply all the exemptions provided in this section by the inflation factor for that tax year and round the product

1 to the nearest \$10. The resulting adjusted exemptions are effective for that tax year and must be used in  
2 calculating the tax imposed in 15-30-103.

3 (b) For tax years beginning after December 31, 2010, the inflation adjustment for the exemption amount  
4 for each dependent described in subsection (5)(a)(ii) who is claimed by married taxpayers filing jointly or  
5 separately on the same form is determined as provided in this subsection (6)(b). The department, by November  
6 1 of each year, shall multiply the exemption provided in subsection (5) by the inflation factor for that tax year and  
7 multiply that amount by 1.05 and round that product to the nearest \$10. The resulting adjusted exemption is  
8 effective for that tax year and must be used in calculating the tax imposed in 15-30-103."

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10 **Section 2.** Section 15-30-121, MCA, is amended to read:

11 **"15-30-121. Deductions allowed in computing net income -- inflation adjustment for federal**  
12 **income taxes paid.** (1) In computing net income, there are allowed as deductions:

13 (a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and  
14 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not  
15 deductible:

16 (i) items provided for in 15-30-123;

17 (ii) state income tax paid;

18 (iii) premium payments for medical care as provided in subsection (1)(g)(i);

19 (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and

20 (v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift  
21 annuity as defined in 33-20-701;

22 (b) subject to subsection (3), federal income tax paid within the tax year, not to exceed:

23 (i) \$5,000 for each taxpayer filing singly, as head of household, or as married filing separately; or

24 (ii) \$10,000 if for married and taxpayers filing jointly;

25 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through  
26 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as  
27 follows:

28 (i) expenses for household and dependent care services necessary for gainful employment incurred for:

29 (A) a dependent under 15 years of age for whom an exemption can be claimed;

30 (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income

do not apply, who is unable to provide self-care because of physical or mental illness; and

(C) a spouse who is unable to provide self-care because of physical or mental illness;

(ii) employment-related expenses incurred for the following services, but only if the expenses are incurred to enable the taxpayer to be gainfully employed:

(A) household services that are attributable to the care of the qualifying individual; and

(B) care of an individual who qualifies under subsection (1)(c)(i);

(iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;

(iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:

(A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;

(B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:

(I) \$2,400 in the case of one qualifying individual;

(II) \$3,600 in the case of two qualifying individuals; and

(III) \$4,800 in the case of three or more qualifying individuals;

(v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

(vi) for purposes of this subsection (1)(c):

(A) married couples shall file a joint return or file separately on the same form;

(B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:

(I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

1 (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate  
2 maintenance may not be considered as married;

3 (D) the deduction for employment-related expenses must be divided equally between the spouses when  
4 filing separately on the same form;

5 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year  
6 and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not  
7 deductible as employment-related expenses;

8 (d) in the case of an individual, political contributions determined in accordance with the provisions of  
9 section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year  
10 that ended December 31, 1978;

11 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed  
12 as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

13 (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to  
14 the conditions set forth in 15-30-156;

15 (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in  
16 determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

17 (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the  
18 taxpayer's dependents, and the parents and grandparents of the taxpayer; and

19 (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified  
20 long-term care services, as defined in 26 U.S.C. 7702B(c), for:

21 (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

22 (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the  
23 taxpayer for tax years beginning after December 31, 1996;

24 (h) light vehicle registration fees, as provided for in 61-3-321(2) and 61-3-562, paid during the tax year;  
25 and

26 (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,  
27 81-7-118, or 81-7-201.

28 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home  
29 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child  
30 and at least one unrelated child in the ordinary course of business may deduct employment-related expenses

1 considered to have been paid for the care of the child.

2 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal  
3 to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of  
4 care. The employment-related expenses apply regardless of whether any expenses actually have been paid.  
5 Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

6 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the  
7 deduction under this subsection (2).

8 (3) (a) For tax years beginning after December 31, 2010, the department shall, by November 1 of each  
9 year, multiply the deduction for federal income taxes paid that are allowed in subsection (1)(b) by the inflation  
10 factor for that tax year and round the product to the nearest \$10. The resulting adjusted deductions are effective  
11 for that tax year and must be used in calculating the tax imposed in 15-30-103.

12 (b) For the purposes of this subsection (3), "inflation factor" means a number determined for each tax  
13 year by dividing the consumer price index for June of the tax year by the consumer price index for June 2010."

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15 NEW SECTION. Section 3. Effective date. [This act] is effective January 1, 2010.

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17 NEW SECTION. Section 4. Applicability. [Sections 1(6)(b) and 2(3)] apply to tax years beginning after  
18 December 31, 2010.

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